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Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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KALAFRANA SHIPPING LTD,

Plaintiff,

08 Civ. 5299 (SAS)

- against -

**ANSWER TO COUNTER-CLAIM
WITH
AFFIRMATIVE DEFENSES**

SEA GULL SHIPPING CO., LTD, a/k/a Sea Gull
Shipping Co. SARL,

Defendant.

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Plaintiff KALAFRANA SHIPPING LTD, by its attorneys MAHONEY & KEANE, LLP, answers the Counter-Claim of defendant SEA GULL SHIPPING CO. LTD., upon information and belief as follows:

ANSWER TO FIRST COUNTER-CLAIM

FIRST: Admits that SEA GULL SHIPPING CO., LTD., had a proprietary interest in certain bunker fuel and lube oil that was on board the M/V ASSIL at the time that plaintiff purchased the vessel but, except as so expressly admitted, denies each and every other allegation in paragraph 42.

SECOND: Admits that KALAFRANA SHIPPING LTD acquired and thereafter operated the M/V ASSIL and that the vessel consumed the bunker fuel and lube oil.

THIRD: Admits that Exhibit A is a true copy of what it purports to be but denies the remaining allegations contained in paragraph 44,

FOURTH: Denies the allegation contained in paragraph 45 that KALAFRANA SHIPPING LTD failed to pay SEA GULL.

ANSWER TO SECOND COUNTER-CLAIM

FIFTH: Denies the allegation contained in paragraph 46.

SIXTH: Admits the allegations in paragraph 47 that defendant demanded payment for the bunker fuel and lube oil on board the vessel at the time title passed and further admits that defendant prosecuted its claim for the value of the bunker fuel and lube oil in the arbitration at London and was awarded the benefit of a setoff against the amounts that it was adjudged to owe plaintiff but, except as so expressly admitted, denies each and every other allegation in paragraph 47.

SEVENTH: Denies the allegations contained in paragraph 48.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

EIGHTH: The claims which are the subject of the "FIRST" and "SECOND" Counter-Claims are barred by the doctrine of *res judicata* and collateral estoppel insofar as defendant prosecuted said claims in an Arbitration at London pursuant to the Memorandum of Agreement between the parties and the Arbitral Tribunal in its Award declared that Kalafrana

was entitled to set off the value of the bunkers and lube oil against certain specified amounts awarded to Kalafrana and against Sea Gull and the *ad damnum* in the Verified Complaint credits Sea Gull accordingly.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

NINTH: This Honorable Court lacks jurisdiction of the counter-claims because the counter-claims are the subject of two proceedings in one of which the counter-claims were adjudicated by an arbitration tribunal at London and in the second of which Sea Gull caused the wrongful arrest of the M/V ASSIL in April, 2007 in the Tribunale di Massa, Italy whereupon the plaintiff arranged for Deutsche Bank to post a letter of undertaking as substitute security for the vessel in the amount required by the Tribunale to obtain the release of the vessel from arrest so that the vessel could return to commercial service which proceeding is projected by Sea Gull's Italian attorneys to last up to an additional five years.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

TENTH: If this Court determines that it lacks subject matter jurisdiction with regard to certain of plaintiff's claims, then this Court lacks subject matter jurisdiction of defendant's counter-claims which arose out of the same Memorandum of Agreement for the sale of the M/V ASSIL.

WHEREFORE, plaintiff KALAFRANA SHIPPING LTD, respectfully requests that this Court dismiss the First and Second Counter-Claims and for such other further relief as to the Court may seem just and proper.

Dated: New York, New York
August 13, 2008

Mahoney & Keane, LLP
Attorneys for Plaintiff Kalafrana
Shipping Ltd

By: /s/ Christopher H. Mansuy